



SUPERIOR COURT OF CALIFORNIA, COUNTY OF RIVERSIDE

General Information and Instructions for Petition to Seal and Destroy Arrest Record - Penal Code §851.8

~~ The following information is not intended to be legal advice or complete instruction. If you have questions, please seek legal advice from an attorney. ~~

A person may petition the court to seal and destroy their arrest records only if either:

- No complaint has been or will be filed and the arresting agency has denied a previous petition.
- A complaint was filed, the action was dismissed, and the court determined the person to be *factually innocent**. (***Factually innocent** means no reasonable cause exists to believe that the person committed the offense for which the arrest was made. *A person is not considered factually innocent when there is a dismissal in the interest of justice or an acquittal due to insufficient evidence or lack of prosecution.*)

An adult found to be factually innocent may petition the court to have their arrest record sealed for three years and then subsequently destroyed. If a civil action is pending against the law enforcement agency, the record may be sealed but not destroyed. If the court grants the petition, the arrest or other proceeding is deemed not to have occurred. Note: The arrest record is different from the court record; destruction of the court record is controlled by Government Code §68152.

QUALIFICATIONS:

- You must have been found factually innocent of the crime for which you were arrested.
- You must have been an adult when arrested or detained.
- The arrest or detention cannot have been for an infraction.
- You cannot have been convicted of any other crime connected to the arrest or detention.

~~ CAUTION ~~

If you intend to petition the court to have your DNA expunged (under PC §299) AND to have your arrest records sealed and destroyed (PC §851.8 or WIC §781.5), it is recommended that you file the DNA expungement request first to preserve your California Bureau of Criminal Identification and Information ("CII") number. If the arrest records are sealed and destroyed first, the associated CII number will also be destroyed and that number is necessary to identify the appropriate DNA sample in the DNA database.

DEADLINES:

Petitions may be filed up to **two years** following the arrest date or the date the complaint was filed, whichever is later. Time restrictions may be waived upon a showing of good cause by the petitioner.

HEARINGS:

At the hearing, it is the responsibility of the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense. The prosecuting attorney has a right to respond to the petition and your request for a finding of factual innocence.

INSTRUCTIONS:

1. Complete Items 2 through 6 of the Petition and Order to Seal and Destroy Arrest Records and sign the petition on page 2. Incomplete forms will not be processed and will be returned for correction. The clerk will complete Item 1 and give you a hearing date.
2. A copy of the petition must be served (by mail or personally delivered) on the District Attorney or the City Attorney with jurisdiction over the offense:
 - a. If mailed, the person mailing must complete the Proof of Service (see page 3 of the petition).

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- b. If delivered, the prosecutor may acknowledge receipt by stamping the original petition to be filed with the court.
3. File the original petition and the completed Proof of Service to the criminal division of the court with jurisdiction over the case (see below). The District Attorney or the City Attorney has 10 days to submit a response to the petition and serve you with a copy.
- **BANNING** 135 N. Alessandro, Banning, CA 92220
 - **BLYTHE** 265 North Broadway, Blythe, CA 92225
 - **INDIO** 46-200 Oasis Street, Indio, CA 92201
 - **MURRIETA** 30755-D Auld Road, Ste. 1226 Murrieta, CA 92563
 - **RIVERSIDE** 4100 Main Street, Riverside, CA 92501

If a complaint has not been filed, provide the court with a copy of your booking and/or arrest information and the denied petition from the arresting agency. If you are unable to obtain the arrest information from the arresting agency, you may need to apply for a "Live Scan" to obtain a copy of your "rap sheet" showing your arrest information. [Live Scan Application form](#); [Live Scan Locations in Riverside County](#) It is the petitioner's responsibility to submit any declarations, affidavits, police reports or other evidence that may exist to support the petition.